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**ORIGINAL
FILED**

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ADR
RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT

E-FILING

7
8 **IN THE UNITED STATES DISTRICT COURT**

9 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

10
11 **ORLANDO DELGADO, an**
12 **individual,**

13 **Plaintiff,**

14 **v.**

15 **FEDERAL EXPRESS**
16 **CORPORATION, a Delaware**
17 **corporation and DOES 1-10,**
18 **inclusive,**

19 **Defendants.**

C08 03576 MMC
CASE NO.:

**DECLARATION OF CYNTHIA D.
GONZALEZ IN SUPPORT OF
NOTICE TO FEDERAL COURT OF
REMOVAL OF CIVIL ACTION
FROM STATE COURT**

**(DIVERSITY JURISDICTION 28
U.S.C. §1332)**

**[Cal. Code Civ. Proc. 430.10 (e) and
(f)]**

Complaint Filed: June 30, 2008

20 1. I am over the age of twenty-one and am competent to testify as to the
21 matters set forth herein. I am a Paralegal employed by Federal Express Corporation
22 in Irvine, California. Except where otherwise indicated, I have personal knowledge
23 of the facts set forth in this Declaration and if called as a witness, I could and would
24 testify competently to each fact.

25 2. Federal Express Corporation is a publicly held company with shares
26 traded on the New York Stock Exchange. It is a Delaware Corporation with its
27 principal place of business in Tennessee.
28

4. A true and correct copy of a verdict survey is attached hereto as Exhibit A.

CYNTHIA D. GONZALEZ

EXHIBIT A



ORRICK, HERRINGTON & SUTCLIFFE LLP
OLD FEDERAL RESERVE BANK BUILDING
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SUMMARY OF CALIFORNIA JURY VERDICTS IN EMPLOYMENT CASES

This study is a compilation of reported jury verdicts in employment cases tried in California state and federal courts from 1981 through April 2001. This study reflects those verdicts reported in *Jury Verdicts Weekly*, the *San Francisco Daily Journal* and *California Law Reporter*. Therefore, it may not reflect all reported verdicts. Also, because our interest is to summarize what juries have decided in these cases, the study in most instances does not report on any reversals, reductions or other modifications resulting from post-trial motions or appeals. The study also excludes cases which were settled or dismissed before reaching a jury.

The study looks at these jury verdicts by the major employment issue involved, broken down by superior court or district court, type of jury award and year. To help summarize the information, the study provides the following five categories of information: (1) the total number of verdicts; (2) the average jury award for all verdicts; (3) the percentage of verdicts in which the plaintiff prevailed; (4) the numerical average of all verdicts in favor of the plaintiff; and (5) the median verdict (i.e., the number above and below which there is an equal number).

When comparing the median verdict with the average verdict, it is important to note that an average is very sensitive to extremely high or extremely low jury awards. This is especially true given that several verdicts have exceeded \$10 million.

We believe that the data is now sufficiently large to permit analysis of litigation trends in jury trials. Nonetheless, because each trial is so unique, it is impossible to predict the likely result in any particular case.

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* For example, a verdict in excess of \$100 million on behalf of twenty-one plaintiffs against Interstate Brands in 2000 was reduced over 80 percent by the Trial Court on post-verdict motions. We note that several recent studies have dealt with the effect on jury verdicts of post-trial motions and appellate decisions that have reversed or materially reduced jury awards.

ORRICK, HERRINGTON & SUTCLIFFE LLP
SUMMARY OF CALIFORNIA JURY
VERDICTS IN EMPLOYMENT CASES
 (Reported From January 1989 through April 30, 2001)

WRONGFUL TERMINATION

Issues	Total Verdicts	Averages Based on Total Verdicts	Plaintiff Prevailed: Number (Percent)	Average Jury Award	Median Jury Award
<u>Discrimination</u>					
Sex	182	\$193,658	84 (46%)	\$419,593	\$227,479
(Sexual Harassment)	(69)	(283,513)	(35) (51%)	558,411	(275,000)
(Non-Harassment)	(113)	(16,763)	(49) (43%)	(320,070)	(140,242)
Race	102	697,785	48 (47%)	1,482,792	495,351
Age	118	348,960	47 (40%)	876,113	472,488
Disability	48	200,705	25 (52%)	385,354	250,000
Total**	450		204 (45%)		
<u>Non-Discrimination</u>					
Breach of Contract/Covenant	310	460,997	207 (67%)	690,382	255,263
Violation of Public Policy	114	602,625	62 (54%)	1,108,053	250,000
Fraud/Misrepresentation	16	661,917	9 (56%)	1,176,742	451,876
Defamation/Slander	16	510,314	6 (38%)	1,360,837	123,000
Retaliation	24	572,054	15 (63%)	915,286	239,866
Total**	480		299 (62%)		

** These totals overlap due to more than one cause of action in some cases.

ORRICK, HERRINGTON & SUTCLIFFE LLP
SUMMARY OF CALIFORNIA JURY
VERDICTS IN EMPLOYMENT CASES
 (Reported From January 1989 through April 30, 2001)

NON-TERMINATION (includes such issues as harassment, failure to hire, failure to promote, demotion, etc.)			
Issues	Average Based on Total Verdicts	Plaintiff Prevailed Number (Percent)	Net Pre-Jury Award
Total Verdicts			

<u>Discrimination</u>				
Sex				
(Sexual Harassment)	124	\$297,643	77 (62%)	\$479,321
(Non-Harassment)	94	(293,688)	(58) (62%)	(484,153)
Race	30	(161,177)	(19) (63%)	(516,481)
Age	78	295,427	32 (41%)	720,103
Disability	20	310,322	5 (25%)	1,241,288
Total**	25	253,789	8 (32%)	793,091
	215		110 (51%)	
<u>Non-Discrimination</u>				
Violation of Public Policy	17	\$248,541	7 (41%)	\$603,600
Breach of Contract/Covenant	24	193,102	14 (58%)	331,032
Retaliation	37	54,832	17 (46%)	119,341
Total**	78		38 (51%)	
				\$442,000
				265,000
				87,000

** These totals overlap due to more than one cause of action in some cases.

ORRICK, HERRINGTON & SUTCLIFFE LLP
SUMMARY OF CALIFORNIA JURY
VERDICTS IN EMPLOYMENT CASES
 (Reported From January 1989 through April 30, 2001)

JURY AWARDS IN CALIFORNIA STATE AND FEDERAL COURTS

Court	Median Jury Award	Average Jury Award	Total Verdicts	Plaintiff Prevailed Number (Percent)
Selected California Superior Courts				
Alameda	\$123,000	\$822,158	73	39 (53%)
Los Angeles	353,238	1,031,255	422	229 (54%)
Orange	366,700	935,173	115	50 (43%)
Sacramento	352,000	1,072,417	65	29 (45%)
San Bernardino	226,150	383,977	41	22 (54%)
Santa Clara	275,000	513,732	59	35 (59%)
San Diego	228,254	379,482	122	52 (43%)
San Francisco	145,121	437,671	76	44 (59%)
San Mateo	293,500	513,732	23	16 (70%)
Total	300,159	689,454	996	516 (51.8%)
United States District Courts				
Northern	\$250,000	\$1,306,524	53	25 (47%)
Eastern	494,351	1,028,617	12	5 (42%)
Central	223,000	755,889	55	27 (49%)
Southern	315,000	292,667	5	3 (60%)
All California U.S. District Courts	268,200	845,924	125	60 (48%)
Total	300,000	767,689	1,121	576 (51%)

**ORRICK, HERRINGTON & SUTCLIFFE LLP
SUMMARY OF CALIFORNIA JURY
VERDICTS IN EMPLOYMENT CASES**

Year	Median Jury Award	Average Jury Award	Total Verdicts	Plaintiffs Prevailed Number (Percent)
1981	\$300,000	\$490,091	18	11 (65%)
1982	136,660	472,946	35	22 (63%)
1983	76,500	238,221	24	13 (54%)
1984	230,000	766,152	29	17 (59%)
1985	252,743	795,343	64	50 (78%)
1986	109,000	268,395	72	42 (58%)
1987	260,500	866,074	80	42 (53%)
1988	120,742	610,613	63	42 (67%)
1989	154,007	341,431	42	28 (66%)
1990	317,135	1,806,034	67	46 (68%)
1991	278,900	449,668	69	37 (53%)
1992	330,000	816,858	81	35 (43%)
1993	250,000	429,315	95	51 (54%)
1994	250,000	457,777	141	79 (56%)
1995	242,479	439,653	106	58 (55%)
1996	184,000	646,013	106	47 (44%)
1997	244,933	643,571	184	94 (51%)
1998	313,500	885,395	209	96 (46%)
1999	368,393	994,730	137	68 (50%)
2000	471,500	1,291,852	86	36 (42%)
2001	426,000	412,833	16	6 (38%)

**ORRICK, HERRINGTON & SUTCLIFFE LLP
SUMMARY OF CALIFORNIA JURY
VERDICTS IN EMPLOYMENT CASES**

EMOTIONAL DISTRESS AWARDS

Year	Median Jury Award	Verdict Jury Award	Total Verdict	Plaintiff Prevailed Number (Percent)
1981	\$45,000	\$45,000	18	1 (6%)
1982	6,500	54,000	35	4 (11%)
1983	150,000	150,000	24	1 (4%)
1984	50,000	50,000	29	2 (7%)
1985	37,000	44,400	64	5 (8%)
1986	30,000	41,318	72	11 (15%)
1987	79,500	145,188	80	8 (10%)
1988	75,000	201,198	63	13 (21%)
1989	80,000	81,429	42	7 (17%)
1990	55,750	270,642	67	23 (34%)
1991	200,000	192,611	69	9 (13%)
1992	200,000	160,134	81	7 (9%)
1993	96,148	199,998	95	19 (20%)
1994	100,000	150,582	141	27 (19%)
1995	85,000	214,965	106	18 (17%)
1996	135,420	309,997	106	23 (22%)
1997	388,000	388,000	184	3 (2%)
1998	500,000	1,249,424	209	7 (3%)
1999	140,000	553,312	137	4 (3%)
2000	425,000	425,000	86	2 (2%)
2001	-0-	-0-	16	-0- (0%)

**ORRICK, HERRINGTON & SUTCLIFFE LLP
SUMMARY OF CALIFORNIA JURY
VERDICTS IN EMPLOYMENT CASES**

PUNITIVE DAMAGES AWARDS				
Year	Median Jury Award	Average Jury Award	Total Verdicts	Plaintiff Prevailed Number (Percent)
1981	\$200,000	\$444,333	18	6 (35%)
1982	100,000	637,713	35	12 (34%)
1983	1,500,000	1,500,000	24	1 (4%)
1984	100,000	498,364	29	11 (38%)
1985	250,000	750,984	64	25 (39%)
1986	75,000	225,000	72	25 (34%)
1987	261,430	1,182,656	80	20 (25%)
1988	305,173	1,161,659	63	12 (19%)
1989	200,000	284,050	42	7 (17%)
1990	115,000	3,394,321	67	14 (20%)
1991	500,000	661,929	69	7 (10%)
1992	1,000,000	1,187,929	81	7 (9%)
1993	235,000	414,995	95	11 (12%)
1994	404,500	913,708	141	12 (9%)
1995	125,000	225,455	106	11 (10%)
1996	325,000	983,715	106	12 (11%)
1997	122,272	734,427	183	28 (15%)
1998	250,000	1,785,198	209	23 (11%)
1999	993,134	2,154,793	137	9 (7%)
2000	1,500,000	15,092,564	86	9 (11%)
2001	42,500	42,500	16	2 (12%)

¹ Total Punitive Damages Verdicts - \$500k-\$1 million: 27
Total Punitive Damages Verdicts - \$1 million or more: 27

CERTIFICATE OF SERVICE

I declare that I am employed with the Legal Department of Federal Express Corporation, whose address is 2601 Main Street, Suite 340, Irvine, California 92614. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on July 25, 2008, I served a copy of:

DECLARATION OF CYNTHIA D. GONZALEZ IN SUPPORT OF NOTICE TO FEDERAL COURT OF REMOVAL OF CIVIL ACTION FROM STATE COURT

☒ **BY U.S. MAIL [Fed. Rule Civ. Proc. rule 5(b)]** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as follows, for collection and mailing at Fed Ex, 2601 Main Street, suite 340, Irvine, California 92614 in accordance with Fed Ex's ordinary business practices.

I am readily familiar with Fed Ex's practice for collection and processing of correspondence for mailing with the United States Postal Service, and know that in the ordinary course of Fed Ex's business practice the document(s) described above will be deposited with the United States Postal Service on the same date that it (they) is (are) placed at Fed Ex with postage thereon fully prepaid for collection and mailing.

☐ **BY OVERNIGHT DELIVERY [Fed. Rule Civ. Proc. rule 5(b)]** by placing a true copy thereof enclosed in a sealed envelope with delivery fees provided for, addressed as follows, for collection by Fed Ex Express, at 2601 Main Street, suite 340, Irvine, California 92614 in accordance with Fed Ex's ordinary business practices.

I am readily familiar with Fed Ex's practice for collection and processing of correspondence for overnight delivery and know that in the ordinary course of Fed Ex's business practice the document(s) described above will be deposited in a box or other facility regularly maintained by Fed Ex Express or delivered to an authorized courier or driver authorized by Fed Ex Express to receive documents on the same date that it (they) is are placed at Fed Ex for collection.

Service List

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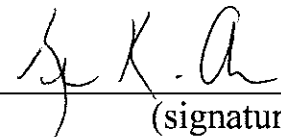
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360 Grand Avenue, #141
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Attorneys for Plaintiff, Orlando Delgado

I declare under penalty of perjury that the foregoing is true and correct. I
declare that I am employed in the office of a member of the bar of this court at
whose direction the service was made.

Executed at Irvine, California, this 25 day of July, 2008.

Renee K. Aven
(typed)


(signature)

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